

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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**Michael Aziz Zarif Shabazz, also known as  
Michael A. Hurley,**

**Plaintiff,**

**-v-**

**9:12-CV-1372 (NAM/TWD)**

**T. Howard; R. Rhondo; B. Burdett; Dabiew;  
Velie; D. Dumas; Lacy; Candi Atkinson; Mario  
D’Acevedo; Rock; Lucien J. LeClaire; Richard  
Roy; John Doe; Brian Fischer; Jerry “Roe”;  
and Richard “Roe,”**

**Defendants.**

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APPEARANCES:

Michael Aziz Zarif Shabazz  
72-B-0089  
Upstate Correctional Facility  
P.O. Box 2001  
Malone, New York 12953  
Plaintiff, *pro se*

Attorney General of the State of New York  
C. Harris Dague, Esq., Assistant New York State Attorney  
The Capitol  
Albany, New York 12224  
Attorney for Defendants

**Hon. Norman A. Mordue, Senior U.S. District Judge:**

**MEMORANDUM-DECISION AND ORDER**

In this action under 42 U.S.C. § 1983, plaintiff, an inmate in the custody of New York State Department of Corrections and Community Supervision, claims he was subjected to excessive force and denied adequate medical care. All claims against the following defendants have previously been dismissed: Dabiew; Velie; D. Dumas; Lacy; Candi Atkinson; Rock; Lucien

J. LeClaire; Richard Roy; John Doe; Brian Fischer; and Richard “Roe.” The remaining defendants move (Dkt. No. 90) for partial summary judgment. Upon referral pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c), United States Magistrate Judge Thérèse Wiley Dancks issued an Order and Report and Recommendation (Dkt. No. 96) recommending that the Court grant partial summary judgment dismissing all claims against the remaining defendants in their official capacities; all claims against defendant Dr. Douyon de Azevedo; and all claims against Jerry “Roe.” No objections have been filed. When a party fails to make specific objections, the court reviews the magistrate judge's report for clear error. *Pittman v. Low*, 2017 WL 2189576, at \*2 (N.D.N.Y. May 18, 2017). The Court has reviewed the Report and Recommendation and finds no error.

It is therefore

ORDERED that the Report and Recommendation (Dkt. No. 96) is accepted in its entirety; and it is further

ORDERED that defendants’ motion (Dkt. No. 90) for partial summary judgment is granted; and it is further

ORDERED that any and all claims against the remaining defendants in their official capacities are dismissed with prejudice; and it is further

ORDERED that all claims against defendant Douyon de Azevedo (sued as Mario D'Acevedo) are dismissed with prejudice; and it is further

ORDERED that all claims against Jerry “Roe” are dismissed without prejudice; and it is further

ORDERED that the case will proceed solely on the Eighth Amendment excessive force

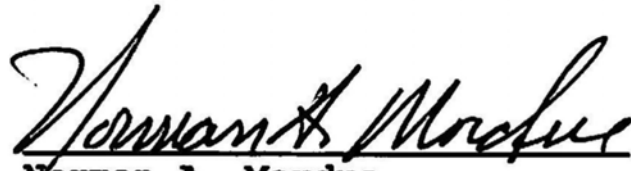
claims against defendants T. Howard; R. Rhondo; and B. Burdett in their individual capacities;  
and it is further

ORDERED that the Clerk of the Court is directed to correct the docket to indicate that  
John Doe was terminated as a defendant on March 18, 2014 (Dkt. No. 11); and it is further

ORDERED that the Clerk of the Court is directed to serve this Memorandum-Decision  
and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

June 1, 2017  
Syracuse, New York

  
**Norman A. Mordue**  
**Senior U.S. District Judge**

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